

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

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	:	
<b>VALERIE PITKIVITCH,</b>	:	<b>Civil Action No. _____</b>
<b>on behalf of herself and</b>	:	
<b>similarly situated employees,</b>	:	
<i>Plaintiff,</i>	:	<b>INDIVIDUAL AND</b>
	:	<b>COLLECTIVE/CLASS</b>
<b>v.</b>	:	<b>ACTION COMPLAINT</b>
	:	
	:	
<b>COMPREHENSIVE HEALTHCARE</b>	:	<b>Jury Trial Demanded</b>
<b>MANAGEMENT SERVICES, LLC;</b>	:	
<b>CHMS GROUP, LLC; SAMUEL</b>	:	
<b>HALPER; AND, EPHRAM LAHASKY,</b>	:	<b>Electronically Filed</b>
<i>Defendants.</i>		
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**INDIVIDUAL AND COLLECTIVE/CLASS ACTION COMPLAINT**  
**Nature of the Action, Jurisdiction, and Venue**

1. This is an individual and collective/class action under the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §§ 207(a) & 216(b), and the Pennsylvania Minimum Wage Act (PMWA), 43 P.S. §§ 333.104(c) & 333.113; and, a class action on the basis of breach of contract and the Pennsylvania Wage Payment and Collection Law (WPCL), 43 P.S. § 260.3, to recover damages for non-payment of wages.
  
2. Jurisdiction of this court is invoked under 28 U.S.C. § 1331 and, for the supplemental state claims, 28 U.S.C. § 1367(a).
  
3. The actions and policies alleged to be unlawful were committed in whole or in part around Pittsburgh, PA, where Plaintiff worked for Defendants. This action is within the jurisdiction of, and venue is proper in, the United States District Court for the Western District of Pennsylvania.

**Parties**

4. **Plaintiff Valerie Pitkivitch** resides at 1705 Juniata Street, Natrona Heights, PA 15065. Plaintiff has worked for Defendants Comprehensive Healthcare Management Services, LLC, and CHMS Group, LLC, and Samuel Halper, and Ephram Lahasky at the Cheswick Rehabilitation and Wellness Center (3876 Saxonburg Boulevard, Cheswick, PA 15024) as a Licensed Practical Nurse (LPN) since on or about September 12, 2017 (when Defendants acquired the facility from Consulate Healthcare).
5. Plaintiff has regularly performed work within the state of Pennsylvania.
6. **Defendant Comprehensive Healthcare Management Services, LLC (“Defendant CHMS, LLC”)**, owns and operates over 40 long-term-care facilities providing rehabilitation and nursing care throughout Pennsylvania and the United States and maintains its headquarters at 147 Reist Street, Williamsville, NY 14221. CHMS, LLC, manages and controls time and payroll policies for the 40+ facilities from its base in Williamsville, New York, and/or from offices in Lynbrook, New York.
7. **Defendant CHMS Group, LLC (“Defendant CHMS Group, LLC”)**, owns and operates over 40 long-term-care facilities providing rehabilitation and nursing care throughout Pennsylvania and the United States and maintains its headquarters at 600 Broadway, Suite E, Lynbrook, New York 11563. CHMS Group, LLC, manages and controls time and payroll policies for the 40+ facilities from its base in Lynbrook, New York, and/or from offices in Williamsville, New York.
8. **Defendant Samuel Halper (“Defendant Halper”)** is an owner and operating officer of Defendant CHMS, LLC, and Defendant CHMS Group, LLC, maintains an office at 147 Reist Street, Williamsville, NY 14221, and exercises control over pay and operational policies at the facilities operated by CHMS, LLC, and CHMS Group, LLC.
9. **Defendant Ephram Lahasky (“Defendant Lahasky”)** is an owner and operating officer

of Defendant CHMS, LLC, and Defendant CHMS Group, LLC, maintains an office at 600 Broadway, Suite E, Lynbrook, New York 11563, and exercises control over pay and operational policies at the facilities operated by CHMS, LLC, and CHMS Group, LLC.

10. Defendants CHMS, LLC, CHMS Group, LLC, Halper and Lahasky are employers, and joint employers, under the FLSA. 29 U.S.C. §203(d). *See*, also, 29 CFR §791.2.
11. At all relevant times Defendants have been an enterprise under common ownership or control engaged in interstate commerce with annual revenues in excess of \$500,000 and have employees engaged in interstate commerce and the production of goods in interstate commerce, and have been subject to the provisions of Section 203(r) and 203(s)(1) of the FLSA.
12. Defendants have regularly employed individuals in the state of Pennsylvania, including Plaintiff, in the performance of work on behalf of Defendants and are, therefore, subject to the provisions of the FLSA, the PMWA and the WPCL.

### **Statement of Claims**

13. Plaintiff is a Licensed Practical Nurse (“LPN”).
14. Plaintiff began working at the Cheswick facility, formerly called Consulate Health Cheswick, in or about April 2013.
15. In or about September 2017 Defendants CHMS, LLC, and/or CMHS Group, LLC, together with Defendants Halper and Lahasky, acquired the Cheswick nursing facility from Consulate Healthcare and renamed it Cheswick Rehabilitation and Wellness Center.
16. Plaintiff has continued to work at the nursing facility after the acquisition.
17. Plaintiff is a W-2 employee.
18. Plaintiff is an employee within the meaning of the FLSA and PMWA.

19. Plaintiff is paid hourly (\$22/hour).
20. Plaintiff has clocked in and clocked out using a time-recording system used by Defendants.
21. Plaintiff is entitled to overtime pay (1 ½ the regular rate of pay) when working more than 40 hours in a workweek.
22. Plaintiff is non-exempt under the FLSA and PMWA.
23. Plaintiff regularly works more than 40 hours in workweeks.
24. Plaintiff has frequently worked in excess of 50 hours per workweek.
25. Notwithstanding the fact Plaintiff is non-exempt, and enters her time worked in the time-keeping system maintained by Defendants, Plaintiff is not paid for all of her overtime hours, or paid at the proper overtime rate for her overtime hours.
26. Plaintiff is also not paid for all of her straight time hours.
27. Defendants consistently fail to pay Plaintiff all of the overtime hours, or straight time hours, worked.
28. Defendants issue a paystub each pay period.
29. The paystub lists, among other things, the hours worked, the rate of pay, overtime hours, gross pay and net pay after taxes/benefits.
30. Payroll and payroll records, as well as time records and the policies regarding payroll and time, are managed and controlled by the personnel at Defendants' Williamsville, New York office and/or its Lynbrook, NY, office, under the direction of Defendants Halper and Lahasky.
31. There have been discrepancies in Plaintiff's paychecks between the hours actually worked and the hours listed on the paystubs: the hours on the paystubs are fewer than

what she has worked and fewer than what she has entered in the time records.

32. In turn, Plaintiff is paid only for the hours listed on the paystub, not the actual hours worked or recorded.
33. Even where the hours listed on the paystubs are accurate Defendants pay only straight time for overtime hours instead of 1 ½ the regular rate of pay.
34. In fact, Defendants have been knowingly falsifying the time and pay records: Defendants have taken the actual time records and only reflected the hours they wanted to pay, rather than the actual hours worked, on the paystubs and, in turn, have paid less than they were legally obligated to pay.
35. Plaintiff has learned over the course of her employment that Defendants have been consistently falsifying the time records and consistently failing to pay for the hours worked in workweeks, overtime workweeks as well as non-overtime workweeks, not only for Plaintiff but for the other LPNs as well.
36. This pattern has continued throughout Plaintiff's employment: Defendants consistently falsify the records of time worked and fail to pay Plaintiff for all of the hours worked.
37. On February 28, 2018, a class/collective action was filed on behalf of the Registered Nurses working for Defendants in Pennsylvania and nationally averring similar practices in violation of the FLSA and PMWA. *Blair, et al. v. Comprehensive Healthcare Management Services, LLC* (Civil Action No. 2:18-254 PJP)(ECF No. 1).
38. The Department of Labor has also been investigating similar discrepancies at a limited number (approximately 15 in Western Pennsylvania) of Defendants' nursing facilities since approximately January 2018.
39. On November 30, 2018, the DOL filed a lawsuit against Defendants CHMS, LLC, CHMS Group, LLC, Sam Halper and specific nursing facilities (some 15) in Western Pennsylvania. *Acosta v. Comprehensive Healthcare Management Services, LLC, et al.*

(2:18-1608 PJP)(ECF No. 1).

40. Upon information and belief the practices at issue (falsifying time and pay records, denying straight time and overtime wages due) have been and still are occurring throughout the 40+ nursing facilities owned and operated by Defendants, including not just the 15 or so nursing facilities in Western Pennsylvania but the nursing facilities in New York, New Jersey and Eastern Pennsylvania.
41. The decisions made to falsify the time and pay records, and pay less than what is legally due, are made and continue to be made by management and staff at Defendants' headquarters in Williamsville, NY, and Lynbrook, NY, and by Defendants Halper and Lahasky.
42. These decisions have been made with the knowledge of local management as well, such as the managers of the nursing facilities in Western Pennsylvania and at the other nursing facilities owned and controlled by Defendants.
43. These decisions (to falsify time and pay records and to deny straight pay and overtime pay due) are applied throughout Defendants' operations, not just in Western Pennsylvania, and with the knowledge of management throughout Defendants' operations.
44. There are at least 100 LPNs who have been employed by Defendants since December 2015 (three years prior to the filing of this Complaint) in the Western Pennsylvania region alone.
45. This Region includes at least 15 facilities: Maybrook-C Kade Opco, LLC; Maybrook-C Evergreen Opco, LLC; Maybrook-C Whitecliff Opco, LLC; Maybrook-C Latrobe Opco, LLC; Maybrook-C Overlook Opco, LLC; Maybrook-C Silver Oaks Opco, LLC; Maybrook-C Briarcliff Opco, LLC; Mt. Lebanon Operations LLC; Murrysville Operations, LLC; South Hills Operations, LLC; Cheswick Rehabilitation and Wellness Center, LLC; Monroeville Operations, LLC; North Strabane Rehabilitation and Wellness

Center, LLC; North Strabane Retirement Village, LLC; and, Brighton Rehabilitation and Wellness Center.

46. There are at least 300 other LPNs who have been employed by Defendants at the nursing facilities outside of Western Pennsylvania.
47. There are approximately 30 other nursing facilities outside of Western Pennsylvania (for a total of 45+ nursing facilities owned and operated and controlled by Defendants).
48. The other LPNs have performed the same primary duties as Plaintiff, specifically providing licensed care to nursing patients.
49. The other LPNs have been W-2 employees.
50. The other LPNs have been employees within the meaning of the FLSA and, for the LPNs working in Pennsylvania, the PMWA.
51. Defendants have a common policy and practice of falsifying time and pay records and denying pay (overtime and straight pay) to their LPNs.
52. Defendants have knowingly and intentionally violated the FLSA's mandate for overtime pay. 29 U.S.C. § 207.
53. Defendants have knowingly and intentionally violated the FLSA's explicit requirement at 29 U.S.C. §211(c) that they maintain accurate records of time worked.
54. Defendants' violations of the FLSA, the PMWA and the WPCL have been knowing, willful and in reckless disregard of the law.

#### **Collective/Class Action Averments**

55. In the past three years Defendants have employed 150+ LPNs in the Western PA region (the 15 nursing facilities referred to in Par. 45).

56. In the past three years Defendants have employed 400 + LPNs throughout the country, including the LPNs in Western PA, at some 40+ nursing facilities.
57. These other LPNs perform the same primary job duties as Plaintiff: provide licensed LPN care to nursing patients.
58. These LPNs have been hired and paid according to the same basic terms as Plaintiff: an hourly wage (normally about \$22.00).
59. These 400 + LPNs have been non-exempt within the meaning of the FLSA.
60. The LPNs in PA have been non-exempt within the meaning of the PMWA.
61. LPNs, like Plaintiff, work at Defendants' facilities not only in the Western Pennsylvania region but elsewhere in Pennsylvania, New Jersey and New York.
62. Like Plaintiff, LPNs working for Defendants in Pennsylvania and nationally regularly work more than forty hours per week.
63. As with Plaintiff, Defendants fail to maintain accurate records of time worked for the other LPNs.
64. In fact, Defendants have a common policy and practice of falsifying time and pay records in order to deny wages (straight and overtime) otherwise due.
65. The LPNs employed by Defendants over the past three years, nationally as well as in Pennsylvania, have been subject to the same time keeping and pay policies as Plaintiff (see Par. 20, 25, 36, above).
66. The 400+ LPNs employed by Defendants nationally (which includes the PA LPNs) over the past three years have regularly worked overtime.

67. Defendants also have a common policy of failing to pay for all straight time hours worked and of failing to pay overtime hours at 1 ½ the regular rate of pay.
68. Defendants have knowingly and intentionally failed to pay the 400+ LPNs for their overtime hours either at the straight rate or proper overtime rate.
69. Defendants' failure to pay overtime due to the 400+ LPNs employed by Defendants over the past three years, and Defendants' failure to maintain accurate records of time worked, have been in violation of the FLSA and the PMWA.
70. Defendants have knowingly and intentionally violated the FLSA and PMWA with respect to the failure to pay overtime and failure to maintain accurate time records.

**COUNT I: VIOLATION OF THE FLSA**  
**Individual and Collective Action (National)**

71. Plaintiff incorporates by reference the preceding paragraphs of this complaint.
72. Plaintiff and all other similarly situated LPNs (the 400+ LPNs working for Defendants in PA and elsewhere nationally) are employees of Defendants within the meaning of the FLSA.
73. Defendants are employers, and joint employers, within the meaning of Section 203(d), 203(r) and 203(s)(1) of the FLSA.
74. Defendants are an enterprise under common ownership or control within the meaning of Section 203(r) and 203(s)(1) of the FLSA.
75. Plaintiff and all other similarly situated LPNs have been paid an hourly rate.
76. Plaintiff and the other similarly situated LPNs have been non-exempt within the meaning of the FLSA.

77. Plaintiff and all other similarly situated LPNs have regularly worked more than forty hours per week (overtime work).
78. Defendants have, as a matter of common policy and practice, denied overtime compensation to Plaintiff and all other similarly situated LPNs for overtime hours.
79. Defendants have, as a matter of common policy and practice, denied overtime compensation to Plaintiff and all other similarly situated LPNs at the proper overtime rate.
80. Defendants have, as a matter of common policy and practice, failed to maintain accurate records of time worked for Plaintiff and all other similarly situated LPNs.
81. Defendants' failure to pay overtime at the proper rate to the LPNs has violated and continues to violate the FLSA.
82. For at least the past three years, Defendants' violations of the FLSA are knowing, willful, and in reckless disregard of the FLSA's overtime requirements.
83. Plaintiff and all other similarly situated LPNs are entitled to recover from Defendants the overtime pay improperly withheld by Defendants, plus interest, attorneys' fees, and costs.
84. Plaintiff and all other similarly situated LPNs are also entitled to recover liquidated damages under 29 U.S.C. §§ 207(a) & 216(b).

**COUNT II: VIOLATION OF THE PMWA**  
**Individual and Class Action (Pennsylvania)**

85. Plaintiff incorporates by reference the preceding paragraphs of this complaint.

86. Plaintiff and all other similarly situated LPNs in Pennsylvania are employees of Defendants within the meaning of the PMWA.
87. Defendants are employers within the meaning of the PMWA.
88. Plaintiff and all other similarly situated LPNs in Pennsylvania have been paid an hourly rate.
89. Plaintiff and all other similarly situated LPNs in Pennsylvania are non-exempt within the meaning of the PMWA.
90. Plaintiff and all other similarly situated LPNs in Pennsylvania have regularly worked more than forty hours per week.
91. Defendants have, as a matter of common policy and practice, denied overtime compensation to Plaintiff and all other similarly situated LPNs in Pennsylvania for overtime hours.
92. Defendants have, as a matter of common policy and practice, denied overtime compensation to Plaintiff and all other similarly situated LPNs in Pennsylvania at the proper overtime rate.
93. Defendants' failure to pay overtime to Plaintiff and similarly situated LPNs employed in Pennsylvania violates the PMWA.
94. Defendants' failure to maintain accurate records of time worked for Plaintiff and similarly situated employees employed in Pennsylvania violates the PMWA.
95. Plaintiff and similarly situated LPNs employed in Pennsylvania are entitled to recover from Defendants the overtime pay improperly withheld by Defendants, plus interest, attorneys' fees, and costs.

**COUNT III: BREACH OF CONTRACT**  
**Individual and Class Action (National)**

96. Plaintiff hereby incorporates by reference the preceding paragraphs of this complaint.
97. When Defendants hired Plaintiff and the other LPNs in Pennsylvania and elsewhere they made definite, clear promises to pay a certain hourly rate for hours worked.
98. Those promises created enforceable contractual obligations.
99. Plaintiff and the other LPNs in Pennsylvania and elsewhere have provided consideration for those promises by promising to deliver and actually delivering valuable services to Defendants.
100. Despite their contractual obligations to compensate Plaintiff and the other LPNs in Pennsylvania and elsewhere for work performed, Defendants have breached those contractual obligations by withholding promised hourly wages.
101. The amounts owed to Plaintiff and the other LPNs in Pennsylvania and elsewhere represents wages.
102. Defendants have not had any good-faith basis on which to withhold the wages.
103. As a result of Defendants' breaches, Plaintiff and the other LPNs in Pennsylvania and nationally have been denied the benefit of the bargain, and have suffered substantial damages in the form of unpaid wages.
104. Plaintiff and the other LPNs in Pennsylvania and elsewhere are entitled to damages commensurate with the unpaid wages, plus interest, plus compensatory damages resulting from the breach.

**COUNT IV: VIOLATION OF THE WPCL**  
**Individual and Class Action (Pennsylvania)**

105. Plaintiff hereby incorporates by reference the preceding paragraphs of this complaint.
106. Defendants' contractual obligation to pay Plaintiff and the other LPNs in Pennsylvania for hours worked each week at an agreed upon amount created obligations under the WPCL, 43 P.S. § 260.1 *et seq.*
107. The compensation Defendants failed to pay to Plaintiff and the other LPNs in Pennsylvania for hours worked constitute wages within the meaning of the WPCL.
108. Defendants violated the WPCL by failing to pay the promised wages for work Plaintiff and the other LPNs in Pennsylvania performed.
109. Defendants have not had any good-faith basis for withholding the promised wages.
110. Plaintiff and the other LPNs in Pennsylvania are entitled to unpaid wages as well as statutory penalties (25% of unpaid wages), pre-judgment and post-judgment interest, attorneys' fees, and costs.

**PRAYER FOR RELIEF**

111. WHEREFORE, Plaintiff and all others similarly situated LPNs respectfully request that this Court:
  - A. Order Defendants to pay the unpaid overtime compensation owed to Plaintiff and all other similarly situated LPNs (nationally);
  - B. Order Defendants to pay liquidated damages to Plaintiff and all other similarly situated LPNs (nationally);
  - C. Order Defendants to pay Plaintiff and the other LPNs for unpaid non-overtime

- wages (nationally);
- D. Order Defendants to pay pre- and post-judgment interest, penalties (under the WPCL), as well as the litigation costs and reasonable attorneys' fees incurred by Plaintiff and all other similarly situated LPNs (nationally); and,
- E. Grant such further relief as the Court deems necessary and proper.

Respectfully submitted,

s/Joseph H. Chivers  
Joseph H. Chivers, Esq.  
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*Counsel for Plaintiff  
and all others similarly situated*

Dated: December 14, 2018

**CIVIL COVER SHEET**

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
**VALERIE PITKIVITCH**  
 1705 Juniata Street, Natrona Heights, PA 15065

**(b) County of Residence of First Listed Plaintiff** Allegheny  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Joseph H. Chivers, Esq., The Employment Rights Group, LLC  
 100 First Avenue, Suite 650, Pittsburgh, PA 15222(412) 227-0763

**DEFENDANTS**  
**COMPREHENSIVE HEALTHCARE MANAGEMENT SERVICES, LLC, ET AL.**  
 147 Reist Street, Williamsville, NY 14221

County of Residence of First Listed Defendant \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excludes Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation - Transfer     8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §§ 207(a) & 216(b)  
 Brief description of cause:  
FLSA/PMWA (denial of overtime/falsification of time records); WPCL/Breach of Contract

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE Peter J. Phipps    DOCKET NUMBER 2:18-254 PJP

DATE 12/14/2018    SIGNATURE OF ATTORNEY OF RECORD /s/Joseph H. Chivers

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

JS 44A REVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number 2:18-254 PJP . Short Caption Blair, et al. v. CHMS, LLC
2.  This case is not related to a pending or terminated case.

**DEFINITIONS OF RELATED CASES:**

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

**I. CIVIL CATEGORY** (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/Joseph H. Chivers

Date: 12/14/2018

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
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\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

VALERIE PITKIVITCH,
on behalf of herself and
similarly situated employees

Plaintiff(s)

v.

COMPREHENSIVE HEALTHCARE MANAGEMENT
SERVICES, LLC; CHMS GROUP, LLC; SAMUEL
HALPER; AND, EPHRAM LAHASKY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) SAMUEL HALPER
147 Reist Street
Williamsville, NY 14221

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Joseph H. Chivers, Esq.
The Employment Rights Group, LLC
Suite 650, 100 First Avenue
Pittsburgh, PA 15222
Tel: (412) 227-0763
jchivers@employmentrightsgroup.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

VALERIE PITKIVITCH,
on behalf of herself and
similarly situated employees

Plaintiff(s)

v.

COMPREHENSIVE HEALTHCARE MANAGEMENT
SERVICES, LLC; CHMS GROUP, LLC; SAMUEL
HALPER; AND, EPHRAM LAHASKY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Ephram Lahasky
600 Broadway, Suite E
Lynbrook, New York 11563

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Joseph H. Chivers, Esq.
The Employment Rights Group, LLC
Suite 650, 100 First Avenue
Pittsburgh, PA 15222
Tel: (412) 227-0763
jchivers@employmentrightsgroup.com

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CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Nurse at Cheswick Rehabilitation and Wellness Center Files Unpaid Wage Suit](#)

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